

REMARKS

Claims 1-17 are pending in this application. Claim 11 has been canceled. No claims have been added.

Examiner's Rejections

The Examiner objects to claim 9 as being in improper dependent form as the claim is not narrower than claim 7 from which it depends. Applicants traverse the rejection and respectfully request the withdrawal thereof.

The Examiner rejects claims 1-17 as indefinite under 35 USC §112, second paragraph. The Examiner rejects the term "with" because it is unclear if the material comprises a dimerdiol ester and an acid or if the material comprises a dimerdiol ester of an acid. The Examiner also rejects claim 1 because it is unclear if the material comprises a dimerdiol ester of a mono- or dicarboxylic acid or if it comprises a dimerdiol ester or a dicarboxylic acid. Claim 9 is also indefinite because it is unclear if a dimer acid in general or a dimerdiacid is intended. Further, claims 10, 12 and 15 are rejected because they lack periods at the end of the claims. Applicants traverse the rejections and respectfully request the withdrawal thereof.

The Examiner has rejected claims 1-3 and 10 as anticipated by Kigawa et al. The Examiner finds that Kigawa discloses a monomer mixture and method for preparing the monomer mixture. The Examiner finds that the invention of claims 1-3 and 10, a dimerdiol ester of an acid having 4-34 carbon atoms, is disclosed in Kigawa and thereby anticipated by Kigawa. Applicants traverse the rejection and respectfully request the withdrawal thereof.

The Examiner rejects claims 4, 5 7-9, 11-13, 16 and 17 as an obvious modification of the art disclosed in Ansmann et al. in view of Hartmann et al. taken with the teachings of Akrongold et al. Ansmann discloses emulsifiers with oils from esters of linear and/or branched fatty acids with polyhydric alcohols. The Examiner finds that Hartmann et al. discloses a process for preparing an emulsion that may contain an oily phase having dicarboxylic acid esters. The Examiner finds that Akrongold discloses a cosmetic containing an oil phase which may contain saturated or unsaturated acids having 5-53 carbon chains that may be straight or branched. The Examiner finds that if one were to combine the disclosures of Hartmann and Akrongold with Ansmann, one would arrive at the claimed invention. Applicants traverse the rejection and respectfully request the withdrawal thereof.

The Examiner rejects claim 6 as an obvious modification of Ansmann et al. in view of Bernhardt et al. Bernhardt discloses cosmetic emulsifiers with thickeners of ester gums which are derived from rosin and a polyhydric alcohol. Ansmann discloses emulsifiers with oils from esters of linear and/or branched fatty acids with polyhydric alcohols. The Examiner finds that if one were to combine the disclosures of Ansmann and Bernhardt, one would arrive at the claimed invention. Applicants traverse the rejection and respectfully request the withdrawal thereof.

The Examiner rejects claims 14 and 15 as an obvious modification of Ansmann et al. in view of Clum et al. Ansmann discloses emulsifiers with oils from esters of linear and/or branched fatty acids with polyhydric alcohols. Clum discloses a skin care composition having an oil emulsion and an antioxidant, namely vitamin E. The Examiner finds that if one were to combine the disclosures of Ansmann with the teachings of Clum one would arrive at the inventions of claims 14 and 15. Applicants traverse the rejection and respectfully request the withdrawal thereof.

#### Applicants' Response

The Examiner objects to claim 9 as being in improper dependent form as the claim is not narrower than claim 7 from which it depends. This rejection is moot as Applicants have

amended claims 1 and 7, which obviates this objection. As such, the rejection has been overcome and the rejection should be withdrawn.

The Examiner rejects claims 1-17 as indefinite. Applicants submit claim amendments to distinctly claim the subject matter of the invention. Applicants intend to claim an oil material comprising (1) a dimerdiol ester of a monocarboxylic acid having 4 to 34 carbon atoms or (2) a dimerdiol ester of a dicarboxylic acid. This confusion is a result of a language barrier. The applicants' intentions are supported by the specification. Further, Applicants amend the claims to add periods. As such, the rejections have been overcome and should be withdrawn.

The Examiner has rejected claims 1-3 and 10 as anticipated by Kigawa et al. Applicants submit that the monomer mixture disclosed in Kigawa is to be polymerized for producing a polymer for plastic lenses. Therefore, it must contain a  $\alpha, \beta$ -unsaturated bond. Further, the number of carbon atoms on the  $\alpha, \beta$ -unsaturated carboxylic acid is small, i.e. having 3-8 carbons, preferably 3-4. Since  $\alpha, \beta$ -unsaturated carboxylic acid has a large number of carbon atoms it hardly polymerizes.

However, the dimerdiol ester of the present invention is not to be polymerized. Although the monocarboxylic acids having

4 to 34 carbon atoms include unsaturated fatty acids, the unsaturated fatty acids do not have a double bond that is easily polymerized. See for example the unsaturated fatty acids mentioned at page 5, lines 10-15. None of them have a double bond that is easily polymerized.

Applicants submit amended claim 1 to recite a dimerdiol ester that is not polymerized. Support for this amendment is found in the specification in the examples listed on pages 4-6. The monomers used are not to be polymerized. As such, the present invention is not anticipated by Kigawa and the rejection should be withdrawn.

Further, Kigawa does not describe or suggest use of the monomer mixture as cosmetics or the like. Therefore, the present invention is not obvious over Kigawa.

The Examiner rejects claims 4, 5 7-9, 11-13, 16 and 17 as an obvious modification of the disclosure of Ansmann et al. in view of Hartmann et al. taken with the teachings of Akrongold et al. Applicants submit that the instant invention is not obvious in view of the cited references as the instant invention yields superior results as shown by the Examples and Comparative Examples in the specification. (e.g. Example 13 which has a superior effect over Comparative example 1 on pages 31-32 of the

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specification.) In the comparative example, glyceride tristearate, which is disclosed in Hartmann is used, yet Example 13 has a much superior result. (See Table 1 on page 41 of the specification.) As such, Applicants have overcome the obviousness rejection and request that the rejection be withdrawn.

The Examiner rejects claim 6 as an obvious modification of Ansmann et al. in view of Bernhardt et al. The Examiner also rejects claims 14 and 15 as obvious over Ansmann and Clum. Applicants submit that the instant claims 6, 14 and 15 are recitations of claim 1 with an additional limitation (i.e. rosin or vitamin E). Claim 1 has not been rejected under §103 as obvious; therefore, an additional limitation to claim 1 will not render the claim obvious. As such, these rejections should be withdrawn.

In view of the fact that all rejections have been overcome by amendment or argument, Applicants respectfully request that claims 1-17 be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview

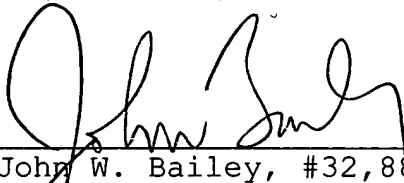
in an effort to expedite prosecution in connection with the present application.


Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
John W. Bailey, #32,881

  
JWB/KJR/jao  
2185-0452P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachment: Version with Markings to Show Changes Made

(Rev. 02/12/01)

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

In the Claims:

Claim 11 has been canceled.

The claims have been amended as follows:

1. (Amended) An oil material comprising a nonpolymerized dimerdiol ester of [with] a monocarboxylic acid having 4 to 34 carbon atoms or a dimerdiol ester of a dicarboxylic acid.

2. (Amended) The oil material according to claim 1, wherein content of the dimerdiol ester [with a monocarboxylic acid having 4 to 34 carbon atoms or a dicarboxylic acid] is 20% by weight or more.

3. (Amended) The oil material according to claim 1, wherein the dimerdiol ester is of [which comprises a dimerdiol ester with] a monocarboxylic acid having 4 to 34 carbon atoms.

7. (Amended) The oil material according to claim 1, wherein the [which comprises a] dimerdiol ester is of [with] a dicarboxylic acid.



10. (Amended) An ester of a dimerdiol of [with] a monocarboxylic acid having 4 to 34 carbon atoms or [with] of a dicarboxylic acid.

12. (Amended) The ester according to claim 10 [11], which is obtained by an esterification reaction of a dimerdiol with a dicarboxylic acid wherein the charging ratio is from 0.2 to 1.2 mol in terms of the molar amount of a dicarboxylic acid based on the average molecular weight calculated from its acid value per 1 mol of a dimerdiol based on the average molecular weight calculated from its hydroxyl value.

15. (Amended) The oil material according to claim 14 wherein the antioxidant is vitamin E.

16. (Amended) A cosmetic or an external agent comprising a dimerdiol ester of [with] a monocarboxylic acid having 4 to 34 carbon atoms and/or a dimerdiol ester of [with] a dicarboxylic acid.